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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,430	09/22/2003	John F. Shanley	CMI5007USNP1	2375
27779 7590 07/27/2009 PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003				
EXAMINER YABUT, DIANE D				
ART UNIT		PAPER NUMBER		
3734				
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07/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,430

Applicant(s)

SHANLEY, JOHN F.

Examiner

DIANE YABUT

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28, 31-35 and 40-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28, 31-35 and 41-53 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to applicant's amendment received on 09/08/2008.

The examiner acknowledges the amendments made to the claims.

Claim Objections

1. Claim 2 is objected to because of the following informalities: In line 2 it reads "firsts" and should read --first--. Appropriate correction is required.
2. Claim 40 is objected to as being dependent upon a cancelled claim(s). As such, this claim has not been further treated on the merits thereof.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-28, 31-35, and 41-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreeder et al., U.S. **2002/0007209 ("Schreeder")** in view of **Hossainy et al.** (U.S. Patent No. **6,558,733**).

Schreeder discloses delivering an expandable, cylindrical device or stent having a plurality of openings **4** of different shapes and sizes that may be filled with multiple beneficial agents having different concentrations, forms, or eluting profiles, including paclitaxel or rapamycin, or an anti-restenosis drug, as well as a biocompatible coating

for delivery to tissue, and a plurality of deformable members **1** forming interconnectable struts and bridging elements (see abstract, Figures 1-2 and 9-13, paragraphs 141-152).

Schreeder does not expressly disclose non-deformable members, or a first plurality of openings containing a first beneficial agent on first and second ends of the device, or a second plurality of openings containing a second beneficial agent positioned on a central portion of the device, wherein the second beneficial agent is different than the first beneficial agent, and wherein the first openings and the second openings are positioned on the non-deformable members. Schreeder also lacks a side hole between the opposite ends having a center axis perpendicular to a longitudinal axis of the device body and configured to accommodate a bifurcation in a lumen.

Hossainy teaches a first plurality of openings **30** containing a first beneficial agent on first and second ends of a stent, a second plurality of openings **30** containing a second beneficial agent positioned on a central portion of the stent, wherein the second beneficial agent is different than the first beneficial agent, and wherein the first openings and the second openings are positioned on non-deformable members **24** or on struts and bridging elements (Figure 4a). See Hossainy, Figure 4a, col. 5, lines 28-30. A side hole may be considered to be the circular section that joins adjacent filaments **22** in Figure 4a, which has a center axis substantially perpendicular to a longitudinal axis of the device body. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Schreeder by having non-deformable members and a side hole, as well as first and second plurality of openings on opposite ends and a central portion of a stent, respectively, with different sizes and beneficial agents with differing

characteristics, as taught by Hossainy, in order to provide a site-specific treatment depending on the intended usage and application of the stent (col. 5, lines 20-34) and in order for the stent to easily expand and contract to thereby facilitate placement of the stent (col. 4, lines 13-15).

Response to Arguments

3. Applicant's arguments with respect to claims 1-28, 31-35, and 40-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734